

JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON
Veronica R. Rodriguez, OSB No. 181818
Assistant County Attorney
Multnomah County Attorney
501 S.E. Hawthorne Blvd., Suite 500
Portland, Oregon 97214
Telephone: (503) 988-3138
Facsimile: (503) 988-3377
E-mail: veronica.rodriguez@multco.us
Of Attorneys for Multnomah County

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BRANDON CHASE GREENSTEIN

No. 3:22-CV-01106-IM

Plaintiff,

v.

MULTNOMAH COUNTY SHERIFF'S
OFFICE, *et al.*,

Defendants.

DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S
COMPLAINT

JURY TRIAL DEMANDED

In Answer to Plaintiff's Complaint, Defendant Multnomah County Sheriff's Office ("Defendant") answers, alleges, and denies as follows:

I. PARTIES

1.

Page 1 – DEFENDANT'S ANSWER TO COMPLAINT

Multnomah County Attorney
501 S.E. Hawthorne Blvd., Ste. 500
Portland, Oregon 97214
(503) 988-3138

Defendant admits that Plaintiff is an individual with a SID # 15509615, who previously resided at Deer Ridge Correctional Institution. Plaintiff now resides at Eastern Oregon Correctional Institution (EOCI) located at 2500 Westgate, Pendleton, Oregon 97801-9699. (ECF 24).

II. Jurisdiction

2.

Defendant admits that jurisdiction is appropriate in United States District Court for the District of Oregon.

III. Statement of Claims

3.

Defendant denies that Defendant or any Multnomah County employee assaulted Plaintiff. Defendant admits that on August 22, 2020, Defendant was booking Plaintiff at Multnomah County Detention Center after he was arrested, when Plaintiff failed to follow directives and became physically combative. Defendant admits that deputies responded with appropriate force. As to injuries that Plaintiff allegedly sustained as a result of Defendant's use of force, Defendant is without knowledge and therefore, denies.

4.

Defendant denies that any Multnomah County employee violated any of Plaintiff's constitutional rights.

IV. Exhaustion of Legal Remedies

5.

Defendant denies that Plaintiff filed for administrative relief as to any claims. Defendant denies that Plaintiff concluded all administrative appeals available to Plaintiff.

Page 2 – DEFENDANT'S ANSWER TO COMPLAINT

V. Prayer for Relief

6.

Defendant denies that Plaintiff is entitled to any of his requested relief.

BY WAY OF FURTHER ANSWER AND AFFIRMATIVE DEFENSES, COUNTY DEFENDANTS ALLEGE AS FOLLOWS:

FIRST AFFIRMATIVE DEFENSE (No Constitutional Violation)

7.

The actions or inactions of Defendant does not constitute any constitutional violations.

SECOND AFFIRMATIVE DEFENSE (Qualified Immunity)

8.

Plaintiff's claims for damages under 42 U.S.C. § 1983 are barred because a reasonable sheriff's deputy would not be aware that his actions violated Plaintiff's clearly established constitutional rights.

THIRD AFFIRMATIVE DEFENSE (Prison Litigation Reform Act)

9.

Some or all of Plaintiff's claims for relief are barred by the Prison Litigation Reform Act, including but not limited to the requirement of exhaustion of administrative remedies and grievance procedures and other applicable provisions of 42 U.S.C. § 1983.

///

///

///

Page 3 – DEFENDANT'S ANSWER TO COMPLAINT

FOURTH AFFIRMATIVE DEFENSE
(Oregon Tort Claims Act)

10.

Plaintiff's state law claims, if any, are subject to the conditions, limitations and immunities contained in the Oregon Tort Claim Act, ORS 30.265 *et seq.*

FIFTH AFFIRMATIVE DEFENSE
(Failure to State a Claim)

11.

Plaintiff fails to state for a claim for which relief can be granted.

SIXTH AFFIRMATIVE DEFENSE
(Discretionary Immunity)

12.

Plaintiff's claims for relief are based upon the Defendant's alleged performance of/or failure to exercise or perform discretionary functions or duties. Defendant is immune from liability from Plaintiff's claims pursuant to ORS 30.265(6)(c).

SEVENTH AFFIRMATIVE DEFENSE
(No Punitive Damages Available Against Public Body and its Officers)

13.

Plaintiff is barred from seeking punitive damages pursuant to ORS 30.269(1).

EIGHTH AFFIRMATIVE DEFENSE
(Additional Defenses)

14.

Defendant reserves the right to raise additional defenses that may become apparent during the course of discovery.

/ / /

Page 4 – DEFENDANT'S ANSWER TO COMPLAINT

WHEREFORE, Defendant prays as follows:

1. That Plaintiff's Complaint be dismissed with prejudice in its entirety;
2. That Defendant recover its reasonable costs, disbursements and attorney fees incurred herein; and
3. That Defendant be granted such other and further relief as may be just and equitable.

DATED this 12th day of July 2023.

Respectfully submitted,

JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

/s/ Veronica R. Rodriguez

Veronica R. Rodriguez, OSB No. 181818
Assistant County Attorney
Of Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2023, I arranged for service of **DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT** on:

Brandon C. Greenstein #15509615
Eastern Oregon Correctional Institution
2500 Westgate Place
Pendleton, OR 97801

by the following method or methods as indicated:

- by **mailing** to said person(s) a true copy thereof, said copy placed in a sealed envelope, postage prepaid and addressed to said person(s) at the last known address for said person(s) as shown above, and deposited in the post office at Portland, Oregon, on the date set forth above.
- by causing a true copy thereof to be **hand delivered** to said person(s) at the last known address for said person(s) as shown above, on the date set forth above.
- by mailing via **certified mail, return receipt requested**, to said person(s) a true copy thereof, said copy placed in a sealed envelope, postage prepaid and addressed to said person(s) at the last known address for said person(s) as shown above, and deposited in the post office at Portland, Oregon, on the date set forth above.
- by **facsimile** to said person(s) a true copy thereof at the facsimile number shown above, which is the last known facsimile number for said person(s) on the date set forth above. A copy of the confirmation report is attached hereto.
- by **emailing** to said person(s) a true copy thereof at the email address shown above, which is the last known email address for said person(s) on the date set forth above.

DATED this 12th day of July 2023.

JENNY M. MADKOUR COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

/s/ Veronica R. Rodriguez
Veronica R. Rodriguez, OSB No.181818
Assistant County Attorney
Of Attorneys for Defendant